

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.1047 of 2021

R.Jaiprakash Rajbhar

...Petitioner

Vs.

The State Represented by,
The Inspector of Police,
CSCID, Ariyalur Police Station,
Ariyalur District.
(Crime No.87 of 2021)

...Respondent

PRAYER : The Criminal Revision Case is filed under Section 397 & 401 of the Code of Criminal Procedure, pleaded to call for the records pertaining to the impugned order in Crl.M.P.No.3783 of 2021 dated 25.11.2021 on the file of the learned Judicial Magistrate No.II, Perambalur and to modify the onerous conditional clauses (1) and (6).

For Petitioner : Mr.R.Shankar Ganesh

For Respondent : Mr.S.Sugendran
Government Advocate(Crl.Side)

O R D E R

(This case has been heard through Video Conferencing)

The Criminal Revision has been filed by the Petitioner to call for the records pertaining to the impugned order in Crl.M.P.No.3783 of 2021 dated 25.11.2021 on the file of the learned Judicial Magistrate No.II, Perambalur and to modify the onerous conditions in clauses (1) and (6) in the order.

2. The submissions of the learned counsel for the petitioner are as under:-

(a) The petitioner is the owner cum driver of the Tanker lorry bearing registration No.MH-46-H-3753 and the vehicle was seized by the respondent/police in connection with the case registered in Crime No.87 of 2021 for alleged offences under Section 3(1) of Solvent Raffinate and Slop (Acquisition, Sale,

Storage and Prevention of Use in Automobiles) Order 2000 & Section 7 (1)(a) (II) of Essential Commodities Act, 1955, on 28.08.2021 and also produced before the Court.

(b) The petitioner had filed an application in CrI.M.P.No.3783 of 2021 under Sections 451 & 457 of Cr.P.C, seeking for an interim custody of the vehicle and the learned Judicial Magistrate No.II, by an order dated 25.11.2021, granted interim custody of the vehicle with the following conditions:-

"1. The Petitioner shall execute a bond for Rs.15,00,000/- with two sureties for like sum.

2. The Petitioner deposit the original R.C.book of the said vehicle and if, for any genuine reason, such as taking insurance policy the Original R.C.book is required, the Petitioner may file appropriate application for interim custody of the same.

3. The Petitioner shall file three dimension (3D) photographs with CD of case vehicle duly authenticated and certified by Petitioner and detailed Panchanama shall be prepared.

4. The Petitioner shall file an undertaking affidavit to the effect that he will neither sell or mortgage or pledge the properties, nor tamper with the physical appearance of said properties.

5. The Petitioner shall produce the said property in the same physical condition before this court, when he is required to do so.

6. The Petitioner should produce the vehicle every month First Working day".

(c) The petitioner is a native of Uttar Pradesh and the vehicle was purchased at Maharastra and the petitioner is having national permit and that he has been taking oil products to all places in the country. As directed by the Trial Court, to deposit the original R.C.book before the Court, the petitioner is ready to comply with the conditions, however, conditions (1) and (6) are onerous in nature, the petitioner cannot be expected to bring the vehicle every month from North India to Perambalur for inspection by the Court. It will be only a waste exercise and the petitioner has to incur huge amounts for fuel and other expenses and he is prepared to give an affidavit of undertaking that he will not sell the vehicle till the disposal of the case and he is prepared to produce the vehicle as and when required by the respondent for the purpose of investigation or before the Court for the purpose of trial.

(d) The petitioner being a person belonging to the other State, it is difficult for him to arrange local sureties and

thereby, seeking for modification of condition with regard to furnishing the sureties and to the condition clause (6).

3. Learned Government Advocate (Crl.Side) would submit that the petitioner is a owner cum driver of the Tanker lorry which was found transporting Distillate Marine Fuel oil without valid licence .

4. Heard the counsel and perused the materials on record.

5. This Court is of the opinion that the conditions in clause (1) and (6) in this case are onerous and this Court directs the petitioner to deposit the Original R.C.book before the Trial Court. In view of the above, the Criminal Revision Case stands allowed and the conditions are modified as follows:-

(a) The petitioner shall execute a bond for Rs.5,00,000/- with one surety for likesum;

(b) The petitioner shall produce the lorry once in six months i.e., on the first working day of the months June and December, untill further orders

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Perambalur.

2.The Inspector of Police,
CSCID, Ariyalur Police Station,
Ariyalur District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.I.Sam Jegan, Advocate Sr.No.3619

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PL(CO)
RVM(07/02/2022)